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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,501	12/19/2001	Joseph S. Wycech	M 6385A	9344

423 7590 12/01/2003

HENKEL CORPORATION  
THE TRIAD, SUITE 200  
2200 RENAISSANCE BLVD.  
GULPH MILLS, PA 19406

EXAMINER
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VO, HAI

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 12/01/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application N .

10/026,501

Applicant(s)

WYCECH, JOSEPH S.

Examiner

Hai Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 and 22-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 22-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.                      6) ☐ Other:

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-41 are rejected under the judicially created doctrine of obviousness-type

double patenting as being unpatentable over claims 1-23 of U.S. Patent No.

6,372,334 substantially as set forth in the Paper no. 2 as a terminal disclaimer has not been received to obviate the double patenting rejections.

3. Claims 42 and 43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No.

5,888,600. Claims 1-12 of U.S. Patent No. 5,888,600 teach each and every element of the presently claimed subject matter with additional limitations of non-planar wall of the structural member. Claim 1 of U.S. Patent No. 5,888,600 teaches the reinforced structural element having a layer construction as follows:

metal/foam/plastic. The plastic is intended to be a glass impregnated resin

(fiberglass) as disclosed in column 3, lines 59-60 of U.S. Patent No. 5,888,600.

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Claim 12 of U.S. Patent No. 5,888,600 discloses the carrier having a thickness of at least 0.002 in.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 19, 22-24, and 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Wycech (US 5,575,526) substantially as set forth in Paper no. 2. Claim 29 should be included in the art rejections over Wycech set forth in Paper no.2 (column 1, lines 20-25, 45-46). The arguments that Wycech fails to teach the reinforcing unit in its elevation view having at least one of the pair of side edges and end edges having a pattern of hills and valleys joined together to be non-straight and undulated are not found persuasive because such features are shown in figure 2 of Wycech. Applicant argues that there is no teaching or suggesting in Wycech of a plurality of holes creating open passageways completely through the laminate. The examiner disagrees because figure 2 again shows the laminate comprising a plurality of through-holes 32 and 26. Accordingly, the art rejections over Wycech are sustained.
6. Claims 42 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0 060 561. EP'561 teaches a structure for reinforcing a plate-like member comprising a metal 20, a foam layer 22 and a fiberglass cloth 23 (figure 6). EP'561 teaches the

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reinforcing body 28 comprising a foam layer and a fiberglass cover material and having a thickness of 3 mm or 0.12 in (page 3, lines 17-20). Likewise, it is clearly apparent that the fiberglass cover material would have a thickness less than 0.12 in, within the claimed range. It is the examiner's position that EP'561 anticipates the claimed subject matter.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wycech (US 5,575,526) substantially as set forth in Paper no. 2. Wycech teaches the plurality of holes creating open passageways completely through the laminate. Wycech does not disclose the precise orientation of the holes as presently claimed. It is believed by the examiner that the precise orientation of the holes involves only routine skill in the art and would vary according to the needs of the particular application. Nothing in Applicant's specification has shown that such orientation is critical to provide any technical advantage to the reinforcement laminate. Therefore, the art rejections are thus sustained.

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9. The art rejections over Mueller in view of Childress have been overcome by the present arguments (see the second paragraph at page 7 extending over page 8 of Paper no. 4).

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (703) 605-4426. The examiner can normally be reached on M,T,Th, F, 8:30-6:00 and on alternating Wednesdays.

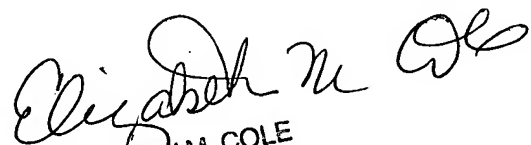
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax

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phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

HV

  
ELIZABETH M. COLE  
PRIMARY EXAMINER